

By: Carona

S.B. No. 626

A BILL TO BE ENTITLED

AN ACT

relating to lottery winnings, including assignment of winnings, periodic payments of winnings, and the deduction of child support delinquency amounts from winnings paid to a prize winner.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter I, Chapter 466, Government Code, is amended by adding Section 466.4001 to read as follows:

Sec. 466.4001. DEFINITION. In this subchapter, "prize winner" means a person who presents a valid winning ticket, claims a lottery prize, and is recognized by the commission as the person entitled to receive lottery prize payments. The term does not include an assignee of a lottery prize.

SECTION 2. Subsection (b), Section 466.406, Government Code, is amended to read as follows:

(b) Payment of prize payments not previously assigned as provided by this section or Section 466.410 shall be made to the estate of a deceased prize winner [~~prizewinner~~] if the prize winner [~~prizewinner~~] was an individual.

SECTION 3. Section 466.407, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) The executive director shall deduct the amount of a delinquent tax or other money from the winnings of a prize winner [~~person~~] who has been finally determined to be:

1 (1) delinquent in the payment of a tax or other money
2 to a state agency and that delinquency is reported to [collected by]
3 the comptroller under Section 403.055~~[, the Texas Workforce~~
4 ~~Commission, or the Texas Alcoholic Beverage Commission];~~

5 (2) ~~[delinquent in making child support payments~~
6 ~~administered or collected by the attorney general;~~

7 ~~[(3) delinquent in reimbursing the Texas Department of~~
8 ~~Human Services for a benefit granted in error under the food stamp~~
9 ~~program or the program of financial assistance under Chapter 31,~~
10 ~~Human Resources Code;~~

11 ~~[(4)]~~ in default on a loan made under Chapter 52,
12 Education Code; or

13 (3) ~~[(5)]~~ in default on a loan guaranteed under
14 Chapter 57, Education Code.

15 (a-1) The executive director shall deduct delinquent child
16 support payments from the winnings of a prize winner in the amount
17 of the delinquency as determined by a court or a Title IV-D agency
18 under Chapter 231, Family Code.

19 (b) If the [a person's] winnings of a prize winner exceed
20 the amount of a delinquency under Subsection (a) or (a-1), the
21 director shall pay the balance to the prize winner [person]. The
22 director shall transfer the amount deducted to the appropriate
23 agency or to the state disbursement unit under Chapter 234, Family
24 Code, as applicable.

25 SECTION 4. Section 466.4075, Government Code, as added by
26 Chapter 1104 (H.B. 2424), Acts of the 75th Legislature, Regular
27 Session, 1997, is amended to read as follows:

1 Sec. 466.4075. DEDUCTIONS OF CHILD SUPPORT FROM CERTAIN
2 LOTTERY WINNINGS. (a) This section applies only to a prize that is
3 [~~required to be paid in periodic installments and is~~] awarded by the
4 director under Section 466.402(b), including a prize paid in
5 periodic installments.

6 (b) In the event of a single payment, the executive director
7 shall deduct from winnings of the prize winner an amount for
8 delinquent child support owed by the prize winner if the executive
9 director has been provided with a certified copy of a court order or
10 a writ of withholding issued under Chapter 158, Family Code, or
11 notice of a child support lien created under Subchapter G, Chapter
12 157, Family Code.

13 (c) If the prize is paid in periodic installments, the [~~The~~]
14 executive director shall deduct [~~an amount a court has ordered a~~
15 ~~person to pay as child support~~] from [~~a person's~~] periodic
16 installment winnings paid to a prize winner amounts owed by the
17 prize winner for child support if the executive director has been
18 provided with a certified copy of a court order or a writ of
19 withholding issued under Chapter 158, Family Code, or notice of a
20 child support lien created under Subchapter G, Chapter 157, Family
21 Code. This subsection does not apply to the payment of amounts to a
22 person to whom the prize winner assigns the right to receive prize
23 payments under Section 466.410.

24 (d) [~~(c)~~] The court order, writ of withholding, or notice of
25 a child support lien provided under Subsection (c) must direct
26 child support to be paid in the manner in which the periodic
27 installment prize is paid. The executive director is not required

1 to receive the court order, the writ of withholding, or notice of
 2 child support lien until the executive director determines there is
 3 a periodic installment prize to which the prize winner is entitled.

4 (e) [~~(d)~~] If the [~~a person's~~] winnings of a prize winner
 5 exceed the amount deducted under Subsection (b) or (c) and Section
 6 466.407 or any other section of this chapter allowing a deduction
 7 from the winnings of a prize winner, the executive director shall
 8 pay the balance to the prize winner [~~person~~]. The executive
 9 director shall transfer the money deducted under Subsection (b) or
 10 (c) to the appropriate person as determined by court order, the
 11 clerk of the court that issued the order for placement in the
 12 registry of the court, or the state disbursement unit under Chapter
 13 234, Family Code, as appropriate.

14 (f) [~~(e)~~] The commission may [~~shall~~] adopt rules necessary
 15 to administer [~~under~~] this section [~~that:~~

16 [~~(1) allow a person with a court order under Chapter~~
 17 ~~157 or 158, Family Code, to file copies of the order with the~~
 18 ~~commission, and~~

19 [~~(2) describe the procedures used by the commission to~~
 20 ~~compare the list of persons winning periodic installment prizes~~
 21 ~~under Section 466.402(b) with a list of obligors compiled from~~
 22 ~~orders filed under Subdivision (1) and to make the deductions~~
 23 ~~required under this section].~~

24 (g) Section 9.406, Business & Commerce Code, does not apply
 25 to periodic payments of lottery prize winnings under this section.

26 SECTION 5. Section 466.410, Government Code, is amended by
 27 amending Subsections (a), (b), (e), and (i) and adding Subsection

1 (k) to read as follows:

2 (a) A person may assign, in whole or in part, the right to
3 receive prize payments that are paid by the commission in
4 installments over time if the assignment is made to a person
5 designated by an order of a district court of Travis County, except
6 that a person may not assign the right to receive prize payments if
7 the person is subject to a child support order and is delinquent in
8 making support payments under that order [~~installment prize~~
9 ~~payments due within the final two years of the prize payment~~
10 ~~schedule may not be assigned~~].

11 (b) A district court shall issue an order approving a
12 voluntary assignment and directing the commission to direct prize
13 payments in whole or in part to the assignee if:

14 (1) a copy of the petition for the order and copies of
15 all notices of any hearing in the matter have been served on the
16 executive director not later than 20 days prior to any hearing or
17 entry of any order. The commission may intervene in a proceeding to
18 protect the interests of the commission but shall not be considered
19 an indispensable or necessary party. A petition filed under this
20 section shall include in the caption the prize winner's
21 [~~prizewinner's~~] name as it appears on the lottery claim form;

22 (2) the assignment is in writing, executed by the
23 assignor and assignee (or designated agent), and by its terms
24 subject to the laws of this state; and

25 (3) the assignor provides a sworn and notarized
26 affidavit stating that the assignor:

27 (A) is of sound mind, over 18 years of age, is in

1 full command of the person's faculties, and is not acting under
2 duress;

3 (B) is not delinquent in payment of child support
4 under a court or administrative order issued in this state or
5 another state;

6 (C) has been advised regarding the assignment by
7 independent legal counsel and has had the opportunity to receive
8 independent financial and tax advice concerning the effects of the
9 assignment;

10 (D) [~~(C)~~] understands that the assignor will not
11 receive the prize payments, or portions of the prize payments, for
12 the assigned years;

13 (E) [~~(D)~~] understands and agrees that with
14 regard to the assigned payments, the state, the commission, and its
15 officials and employees will have no further liability or
16 responsibility to make the assigned payments to the assignor;

17 (F) [~~(E)~~] has been provided a one-page written
18 disclosure statement stating, in boldfaced type, 14 points or
19 larger:

20 (i) the payments being assigned, by amounts
21 and payment dates;

22 (ii) the purchase price being paid, if any;

23 (iii) if a purchase price is paid, the rate
24 of discount to the present value of the prize, assuming daily
25 compounding and funding on the contract date; and

26 (iv) the amount, if any, of any origination
27 or closing fees that will be charged to the assignor; and

1 (G) [~~(F)~~] was advised in writing, at the time the
2 assignment was signed, that the assignor had the right to cancel
3 without any further obligation not later than the third business
4 day after the date the assignment was signed.

5 (e) The court order shall include specific findings as to
6 compliance with the requirements of Subsections (b), (c), and (d)
7 and shall specify the prize payment or payments assigned, or any
8 portion thereof, including the dates and amounts of the payments to
9 be assigned, the years in which each payment is to begin and end,
10 the gross amount of the annual payments assigned before taxes, and
11 the [~~prizewinner's~~] name of the prize winner as it appears on the
12 lottery claim form[~~, the assignor's social security or tax~~
13 ~~identification number, and, if applicable, the citizenship or~~
14 ~~resident alien number of the assignee if an individual~~].

15 (i) Notwithstanding any other provision of this section,
16 there will be no right to assign prize payments following:

17 (1) the issuance, by the Internal Revenue Service, of
18 a technical rule letter, revenue ruling, or other public ruling of
19 the Internal Revenue Service that determines that, based on the
20 right of assignment as provided by this section, a lottery prize
21 winner [~~prizewinner~~] who does not assign prize payments would be
22 subject to an immediate income tax liability for the value of the
23 entire prize rather than annual income tax liability for each
24 installment when paid; or

25 (2) the issuance by a court of a published decision
26 holding that, based on the right of assignment as provided by this
27 section, a lottery prize winner [~~prizewinner~~] who does not assign

1 prize payments would be subject to an immediate income tax
2 liability for the value of the entire prize rather than annual
3 income tax liability for each installment when paid.

4 (k) Section 9.406, Business & Commerce Code, does not apply
5 to periodic payments of lottery prize winnings under this section.

6 SECTION 6. (a) Subsection (c), Section 466.407,
7 Government Code, is repealed.

8 (b) Section 466.4075, Government Code, as added by Chapter
9 135 (H.B. 566), Acts of the 75th Legislature, Regular Session,
10 1997, is repealed.

11 SECTION 7. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2011.